

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA
FOR THE OCTOBER 14, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee proposes the following agenda for the October 14, 2015 status conference. The defendants, the Post Confirmation Officer, the FDA, the Massachusetts Board of Registration in Pharmacy, and the U.S. Attorney's office have been given an opportunity to comment on this proposed agenda.

A. MOTIONS FOR WHICH ORAL ARGUMENT IS REQUESTED¹

1. Responses to Court's Order Regarding Jurisdiction Pursuant to 28 U.S.C. § 1334(b) in Certain New Hampshire Cases [Dkt. 2103]
 - a. Plaintiffs Jojaya Garcia's and Cheryl A. McCarthy's Response [Dkt. 2176]
 - b. Plaintiff Lecia J. Golden's Joinder to Plaintiff Garcia's and McCarthy's Response [Dkt. 2177]
 - c. Defendants' Response
 - i. *Garcia v. O'Connell et al.*, 15-cv-12818 [Dkt. 17]
 - ii. *Peckham (McCarthy) v. O'Connell et al.*, 15-cv-12347 [Dkt 18]
 - iii. *Golden v. O'Connell et al.*, 15-cv-12346 [Dkt. 18]
 - d. Plaintiffs' Reply [Dkt. 2234]
 - i. Plaintiff Lecia J. Golden's Joinder to Plaintiffs Garcia's and McCarthy's Reply [Dkt. 2238]

¹ At the September 10 status conference, the Court indicated that it would hear these matters at the next status conference.

2. New Hampshire Defendants' Motion to Dismiss or Abstain From Jurisdiction
 - a. *Garcia v. O'Connell et al.*, 15-cv-12818 [Dkt. 16]
 - i. Plaintiff's Opposition [Dkt. 22]
 - b. *Peckham (McCarthy) v. O'Connell et al.*, 15-cv-12347 [Dkt 17]
 - i. Plaintiff's Opposition [Dkt. 23]
 - c. *Golden v. O'Connell et al.*, 15-cv-12346 [Dkt. 17]
 - i. Plaintiff's Opposition [Dkt. 23]
3. Leona Corker's Amended Petition for Approval of Compromise Settlement in Wrongful Death Claim Pursuant to VA Code § 9.01-55 [Dkt. 2314]

B. REPORT TO THE COURT

4. Status of bankruptcy
5. Status of insurance declaratory judgment actions
 - a. *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
 - b. *State Farm Fire and Casualty Company v. Specialty Surgery Center PLLC, et al.*, 2:15-cv-00026 (M.D. Tenn.)
 - i. Specialty Surgery Center Defendants' Notice of Status of Product Liability Claims and Certification to Tennessee Supreme Court [Dkt. 2285]
 - ii. STOPNC Patients' Motion to Intervene
6. Status of discovery
 - a. Court rulings update
 - i. Order on Bellwether Trials for Nashville Healthcare Defendants [Dkt. 2309]
 - ii. Order on Saint Thomas Entities' Motion to Compel Invoking Defendants [Dkt. 2240]
 - iii. Qualified Protective Order Regarding Production of Certain Information Maintained by the Tennessee Department of Health [Dkt. 2243]
 - iv. Order denying *Ex Parte* Motion Regarding Reconsideration of Judge Boal's Order [Dkt. 2123] as it Relates to Lisa Cadden's Deposition (*filed under seal*, dkt. unknown) [Dkt. 2276]

- v. Order denying Tennessee Clinic Defendants' Motion to Reconsider Protective Order for NECC [Dkt. 2277]

- 7. Status of litigation track
 - a. Assented-To Tennessee Clinic Defendants' Motion to Extend Deadlines Applicable to the Tennessee Cases [Dkt. 2251]
 - b. PSC's Proposed Qualified Protective Order for the Production of Certain Information Maintained by the Maryland Department of Health and Mental Hygiene (*forthcoming*)
- 8. Report from *Pro Se* Liaison
- 9. Status of appeal
 - a. Order and Mandate Dismissing Virginia Plaintiffs' First Circuit Appeal [Dkts. 2278, 2279]
- 10. Schedule for future status conferences
 - a. November 12, 2015, 2:00 p.m.
 - b. December 17, 2015, 2:00 p.m.

C. FULLY BRIEFED MOTIONS

Unopposed Motions

- 11. Unopposed Motion of Plaintiffs Richard Esposti and Danielle Esposti for Leave to File Second Amended Complaint, [*Esposti et al. v. Cadden et al.*, No. 1:14-cv-14086; Dkt. 11]
- 12. Plaintiffs' Unopposed Motion to Amend Complaint [*Simas et al. v. New England Compounding Pharm. Inc. et al.*, No. 1:13-md-2419; Dkt. 14]
- 13. Ameridose's Unopposed Motion to Destroy 100 Pallets of Paper Records Pertaining to its Recalled Products [Dkt. 1981]
- 14. Saint Thomas Entities' Motion to Continue Issue Discovery on Proximate Causation to After Completion of Certain Depositions [Dkts. 2245, 2246, 2247] (*unopposed discovery-related motion before Judge Boal*)
- 15. New Hampshire Plaintiffs' Motion to Dismiss Certain Cases [Dkts. 2252, 2253, 2267]
- 16. Box Hill Stipulation on Extension of Time to Answer Complaints [Dkt. 2268]

Discovery-Related Motions (*scheduled for oral argument before Judge Boal at October 14 hearing*)

17. Saint Thomas Entities' Motion to Compel Ameridose LLC to Produce Documents Requested in Second Request for Production [Dkt. 2188, 2189]
 - a. Ameridose's Response [Dkt. 2223]
18. Tennessee Clinic Defendants' Motion to Compel Compliance with Subpoena to NECC [Dkt. 2190, 2191]
 - a. Trustee's Opposition [Dkt. 2227]
 - b. Tennessee Clinic Defendants' Reply [Dkt. 2291]
 - c. Post Confirmation Officer's Surreply [Dkt. 2317]
19. U.S.'s Motion to Intervene and for a Stay of Certain Depositions Pending Resolution of Related Criminal Proceedings and Opposition to the Saint Thomas Entities' Motion to Compel Production of Criminal Discovery [Dkt. 2209]
 - a. Tennessee Clinic Defendants' Response [Dkt. 2274]
 - b. Saint Thomas Entities' Response [Dkt. 2275]
20. Saint Thomas Entities' Motion to Compel MSM [Dkts. 2248, 2249]
 - a. United States Opposition [Dkt. 2273]
 - b. MSM Opposition and Cross-Motion for Protective Order [Dkt. 2289]
 - c. Saint Thomas Entities' Response [Dkt. 2304]
21. PSC Motion to Compel Saint Thomas Entities [Dkts. 2260, 2261]
 - a. Saint Thomas Entities' Opposition [Dkt. 2292]
22. Saint Thomas Entities' Motion to Compel Greg Conigliaro [Dkts. 2282, 2283]
 - a. Greg Conigliaro's Opposition (*forthcoming*)

Motions for which Oral Argument has Been Waived

23. Ohio Medical Defendants' Motion to Dismiss [Dkt. 2099]
 - a. Plaintiff's Opposition [Dkt. 2265]

Other Motions

24. Choice of Law Briefing
 - a. Letters
 - i. Premier Defendants' Letter [Dkt. 1915]
 - ii. BKC Defendants' (et al.) Letter [Dkt. 1921]

- iii. Box Hill Defendants' (et al.) Letter [Dkt. 1922]
- b. Three Pagers
 - i. PSC's Statement [Dkt. 1924]
 - ii. Trustee's Statement [Dkt. 1925]
 - iii. Saint Thomas Entities' Statement [Dkt. 1926]
 - iv. Tennessee Clinic Defendants' Statement [Dkt. 1942]
 - v. Premier Defendants' Statement [Dkt. 1927]
 - vi. GDC's Statement [Dkt. 1928]
 - vii. FDA's Statement [Dkt. 1948]
- c. Order re Choice of Law Issues [Dkt.1938]
- d. Briefs in Response to Order:
 - i. PSC's Response [Dkt. 2004]
 - ii. Ameridose's Joinder in PSC's Memorandum Regarding Choice of Law for cases filed in TN and NJ [Dkt. 2018]
 - iii. Saint Thomas Entities' Response [Dkt. 2071]
 - iv. Tennessee Clinic Defendants' Response [Dkt. 2073]
 - v. Specialty Surgery Clinic Defendants' Response [Dkt. 2064]
 - vi. Premier Defendants' Response [2072]
 - vii. Bhagat and Perkins' Response [Dkt. 2074]
 - viii. PSC's Reply [Dkt. 2097]

D. BRIEFING IN PROGRESS

- 25. Finnegan and Haynes Joint Motion to Quash Deposition Subpoenae [Dkts. 2211, 2212, 2213, 2214]
 - a. Response to Joint Motion to Quash [Dkt. 2215]
- 26. PSC Motion for Partial Summary Judgment Regarding Product Liability Claims Against Saint Thomas Outpatient Neurosurgical Center [Dkts. 2300, 2302]

Dated: October 12, 2015

Respectfully submitted,

/s/ Kristen A. Johnson

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CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Proposed Agenda to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: October 12, 2015

/s/ Kristen A. Johnson

Kristen A. Johnson, BBO # 667261